

IN THE MATTER OF THE
THE APPLICATION OF
THEODORE C. SOLOMON
FOR A SPECIAL EXCEPTION AND
VARIANCES ON PROPERTY LOCATED
ON THE NORTH SIDE OF BENSON
MILL ROAD, 320' WEST OF C/L
OF FALLS ROAD
(3006 BENSON MILLS ROAD)
5TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 92-356-XA

* * * * *

O P I N I O N

This case comes before this Board on appeal from a decision of the Deputy Zoning Commissioner dated June 2, 1992, granting the Petition for a Special Exception to permit a kennel on the subject property and granting certain setback variances, but denying the petition for a variance to permit an accessory kennel building in the side/front yard in lieu of the required rear yard.

Counsel for the Petitioner and Protestants stipulated and agreed that no testimony would be heard regarding restrictive covenants.

Esther Solomon, wife of the Petitioner, testified that she and her husband own and keep three German shepherds, two males and a spayed female, on the subject property, which is zoned R.C. 2. She testified that they want to be able to have one or two more female German shepherds, to be used for breeding, and would breed each female every other year and sell the puppies. She testified that the puppies would definitely be sold by the time they were four months old.

Mrs. Solomon testified that all three dogs are kept in at night, and during the day they are confined either to a kennel run

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in the front of the property on the west side, or to an area in the back yard surrounded by an 8-foot-high stockade fence which is buffered by trees beyond the fence. She testified that the fenced-in area in the back contains a 20-foot by 20-foot concrete pad with four 5-foot by 20-foot runs with dog houses in them.

Photographs presented as Petitioner's Exhibits 2A through 2H show the fenced-in area and kennels to be kept in a clean, orderly condition.

Mrs. Solomon testified that she and her husband are requesting a special exception that would restrict them to five adult dogs, and that they do not want the special exception or variances to pass on to any future owner or lessee of the subject property.

She further testified that, in her opinion, granting a special exception for a kennel on the subject property would not be detrimental to the health, safety or general welfare of the neighborhood and would comply with all other conditions of Section 502.1 of the Baltimore County Zoning Regulations (BCZR).

The Petitioners requested a variance from Section 421.1 of the BCZR to permit a kennel use area as close as 51 feet in lieu of the required minimum setback of 200 feet from the property line; and a variance from Section 400.1 of the BCZR to permit accessory buildings in the side/front yard in lieu of the rear yard.

Mrs. Solomon testified that they could not meet the 200-foot setback requirement because the basement of their house is used as a kennel, and their house is not 200 feet from the property line. She testified that of the outside kennels, which are used as day

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runs, the one in the front yard is the closest one to the property line, being 51 feet from the line.

Two neighbors who live adjacent to the Petitioner testified that they had no objection to the granting of the special exception or variances. Fielder Hiss, Jr., who is the closest neighbor, testified that he considers the dogs a deterrent to potential burglars, and that the dogs are never loose, nor have they posed any threat to him or his two sons. Morton D. Goldstein, who also lives adjacent to the Petitioner, testified that the dogs do not bark excessively and seem to be well-trained.

William F. Kirwin, an expert land planner, testified that there is plenty of space on the 3.7-acre property for five adult dogs and a litter of puppies every year. He testified that the run behind the house is located in a gully and so buffered by a wooded area that it can't be seen from Benson Mill Road or the entry drive at all. He further testified that the proposed kennel would not be detrimental to the primary agricultural uses of the R.C. 2-zoned property, and that the requested special exception would comply with all the conditions of Section 502.1 of the BCZR.

Mr. Kirwin testified that special circumstances on the property would make strict compliance with the 200-foot setback requirement a practical difficulty or impose unreasonable hardship, because the house is already on the site, and there is no place that the kennel could be put on the site and meet the 200-foot requirement.

Robert C. Merrey, Jr., Division Director, Support Services,

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Department of Environmental Protection & Resource Management, testified that, based on sound level measurements taken at the site, there will more than likely be excessive levels of noise if the special exception is granted.

Michael Lambros, a resident of the Benson Mill Estates development, in which the subject property is located, testified that, in his opinion, the proposed kennel would be detrimental to the health, safety and general welfare of the neighborhood. He testified that he believes such a kennel would create noise and traffic problems for the community and that if one of the dogs got loose, it could pose a danger to the community. He further testified that he objects to allowing a commercial venture into a solid residential neighborhood.

Eileen Starner, another resident of the development, testified that, in her opinion, having a kennel in the neighborhood would seriously impact on the value of her house.

Both Mr. Lambros and Ms. Starner testified that they have heard the sound of barking dogs on occasion, but could not testify with certainty that the sounds were those of the Petitioners' dogs. Both Protestants live one-third mile or more from the subject property.

After carefully considering all the testimony and evidence, this Board finds that the Petitioners have shown that the proposed use will meet the standards and requirements of Section 502.1 of the BCZR, and the special exception should be granted, with certain restrictions.

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The Board further finds that adherence to the 200-foot setback requirement would cause the Petitioners practical difficulty or unreasonable hardship, because of the location of the existing house and the conditions peculiar to the land. However, the Board is of the opinion that the outside kennel and dog run located on the west side of the property, 51 feet from the property line, could be moved without undue hardship to within the fenced-in area in the back yard.

O R D E R

IT IS THEREFORE this 28th day of January, 1993 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Exception to use the subject property as a kennel (a "fanciers" establishment) be and is hereby GRANTED, subject to the restrictions set forth hereinafter; and it is further

ORDERED that a variance to permit a west side yard setback of 88 feet, an east side yard setback of 170 feet, and a rear yard setback of 120 feet, all in lieu of the required 200 feet for the existing dwelling and accessory kennel building, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1. The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reasons, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The special exception and variance relief granted herein shall inure to the use and benefit of the Petitioners, Theodore and Esther Solomon, only. In the event the Petitioners either sell, lease or transfer the subject property to a third party, the special exception for a kennel operation on the subject property

Case No. 92-356-XA Theodore C. Solomon 6

shall cease and terminate.

3. The Petitioners shall have no more than five (5) adult dogs, only two (2) of which may be unspayed females, on the property at any one time. Said females shall be limited to producing one litter a year total, not per dog. All dogs kept on the premises are required to be the personal pets of the Petitioners.
4. All dogs shall be kept inside the subject dwelling from approximately 9:00 P.M. until approximately 8:00 A.M. each day. Further, whenever the dogs are outside, they shall be kept inside the fenced area as depicted on Petitioner's Exhibit 1. At no time shall the dogs be permitted to run outside the fenced area, unless under the direct supervision of the Petitioners.
5. Within sixty (60) days of the date of this Order, the accessory kennel building located outside the fenced area on the west side of the subject property shall either be removed from the property or relocated to within the fenced area as shown on Petitioner's Exhibit 1. In either event the Petitioners shall submit a revised site plan depicting either its removal or relocation for inclusion in the case file within sixty (60) days of the date of this Order.
6. Any and all puppies resulting from the Petitioners' breeding their dogs shall be removed from the property within four (4) months after their birth. This should allow the Petitioners sufficient time to either sell or relocate any and all puppies.
7. When applying for any permits, the site plan and/or landscaping plan filed must reference this case and set forth and address the restrictions of this Order;

and it is further

ORDERED that the Petition for Zoning Variance requesting relief from Section 421.1 of the BCZR to permit a kennel use area as close to a property line as 51 feet in lieu of the required

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minimum of 200 feet, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and it is further

ORDERED that the Petition for Zoning Variance from Section 400.1 of the BCZR to permit an accessory kennel building to be located in the side/front yard in lieu of the required rear yard, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED since the Petitioners are now required, pursuant to this Order, to either relocate or remove this smaller kennel from the side/front yard of their property.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Judson H. Lipowitz
Judson H. Lipowitz

S. Diane Lavery
S. Diane Lavery

IN RE: PETITIONS FOR SPECIAL EXCEPTION AND ZONING VARIANCE - N/S of Benson Mill Road, 320' W of the C/L of Falls Road (3006 Benson Mill Road) 5th Election District 3rd Councilmanic District

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 92-356-XA

Theodore C. Solomon
Petitioner

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Exception in which the Petitioner requests approval of a kennel (a "fanciers" establishment) on the subject property, and a Petition for Zoning Variance requesting relief from Section 421.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a kennel use area as close to a property line as 51 feet in lieu of the required minimum of 200 feet, and from Section 400.1 of the B.C.Z.R. to permit two accessory buildings to be located in the front and side yards in lieu of the required rear yard, all as more particularly described on Petitioner's Exhibit 1.

Esther Solomon appeared and testified on behalf of herself and her husband, legal property owners and Petitioners, and was represented by Robert A. Hoffman, Esquire. Also appearing on behalf of the Petitioners was William Kirwin, expert Land Planner. Appearing as Protestants in the matter were Carl W. and Eileen Starner, and Bruce Penczek. The Protestants were represented by Michael J. Lambros, Esquire.

Testimony indicated that the subject property, known as 3006 Benson Mill Road, consists of 3.7317 acres, more or less, zoned R.C. 2 and is improved with a one and one-half story dwelling, and two accessory buildings used as kennels. Petitioners filed the instant Petitions to legalize their use of the property as a kennel. Esther Solomon testified

ORDER RECEIVED FOR FILING
Date 1/29/93
By [Signature]

PETITION AND AUTHORIZATION

We, the undersigned, are owners of Lots known as Benson Mill Estates, which plat is recorded in the Land Records of Baltimore County in Plat Book EHKJR. 37, folio 77. We hereby authorize Michael J. Lambros and/or Carl Starner as our attorney and/or agent to represent to the Zoning Board of Baltimore County this Petition signed by us as our objection to the request made by Theodore C. Solomon for Animal Boarding Place (Fancier's License) at 3006 Benson Mill Road in his Petition for Special Exception for a kennel under Baltimore County Zoning regulations 421.1 and variance of side/front yard in lieu of rear for accessory building Zoning regulations 400.1. The case Case number is 92-356XA which is scheduled for a hearing on May 11, 1992 at 10:00 a.m. at Baltimore County Courthouse Room 118, Towson, Maryland.

In addition to the general objection to this request, we specifically object to the request because it violates the restrictions of the development; specifically, Restriction #1 that states that the Land conveyed shall not be occupied or used for any purpose other than residential (Restrictions attached).

Name	Address	Lot No.
Alfalfa	1000000000	#4
Upper Meridian	Upper Meridian	#13
Upper Meridian	Upper Meridian	#5
Upper Meridian	Upper Meridian	#4
Upper Meridian	Upper Meridian	#14

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Upper Meridian	Upper Meridian	#14

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

APRIL 8, 1992

NOTICE OF REASSIGNMENT

CASE NUMBER(S): 92-356-XA
LEGAL OWNER: THEODORE C. SOLOMON
LOCATION: 3006 BENSON MILL ROAD

HEARING OF THE ABOVE MATTER WILL TAKE PLACE AS FOLLOWS:
MONDAY, MAY 11, 1992 at 10:00 a.m.

IN THE BALTIMORE COUNTY ROOM 118, COUNTY COURTHOUSE, 400 WASHINGTON AVENUE, TOWSON, MARYLAND 21204.

Lawrence E. Schmidt
Lawrence E. Schmidt

ZONING COMMISSIONER
BALTIMORE COUNTY

cc: *Theodore Solomon
Robert A. Hoffman, Esq.

*ENCLOSED PLEASE FIND A NEW DATE STICKER TO BE PLACED ON THE ZONING SIGN.

NOTIONER'S BIT 4

Esther and Theodore Solomon
3006 Benson Mill Road
Upperco, Maryland 21155
April 4, 1992

Dear Neighbor:

As you are aware, we are seeking approval from Baltimore County to allow us to breed our German Shepherd Dogs. We have been told by Baltimore County that this requires a special exception and variances to some setback regulations.

We are committed to having no more than 5 adult dogs on our property at any time, and we are positive that you will not be disturbed in any way by this use. Therefore, we ask that you sign below to indicate that you do not oppose the granting of a special exception or variance in case No. 92-356-XA to allow us to breed our German Shepherds.

Sincerely,

Pauline J. Millette
3014 Benson Mill Rd.
Upperco, Md. 21155
771-4576

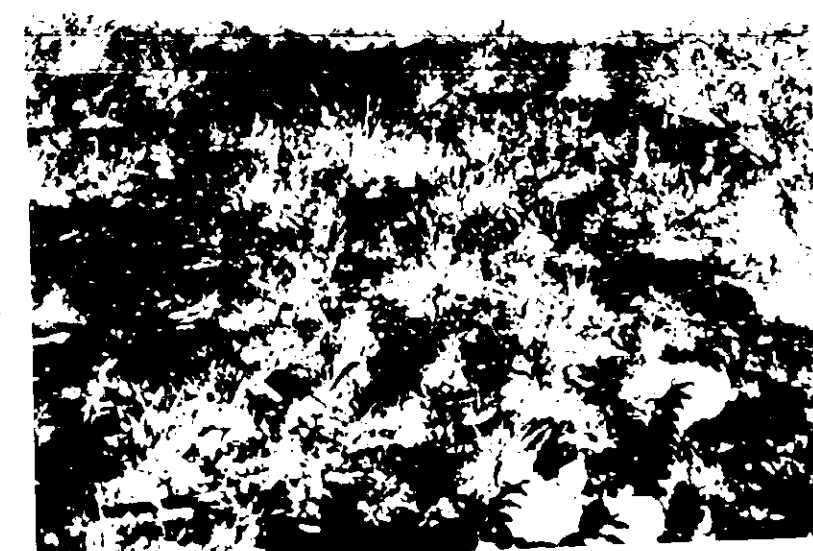
E.V. Morgan
3010 Benson Mill Rd.
Upperco, MD 21155

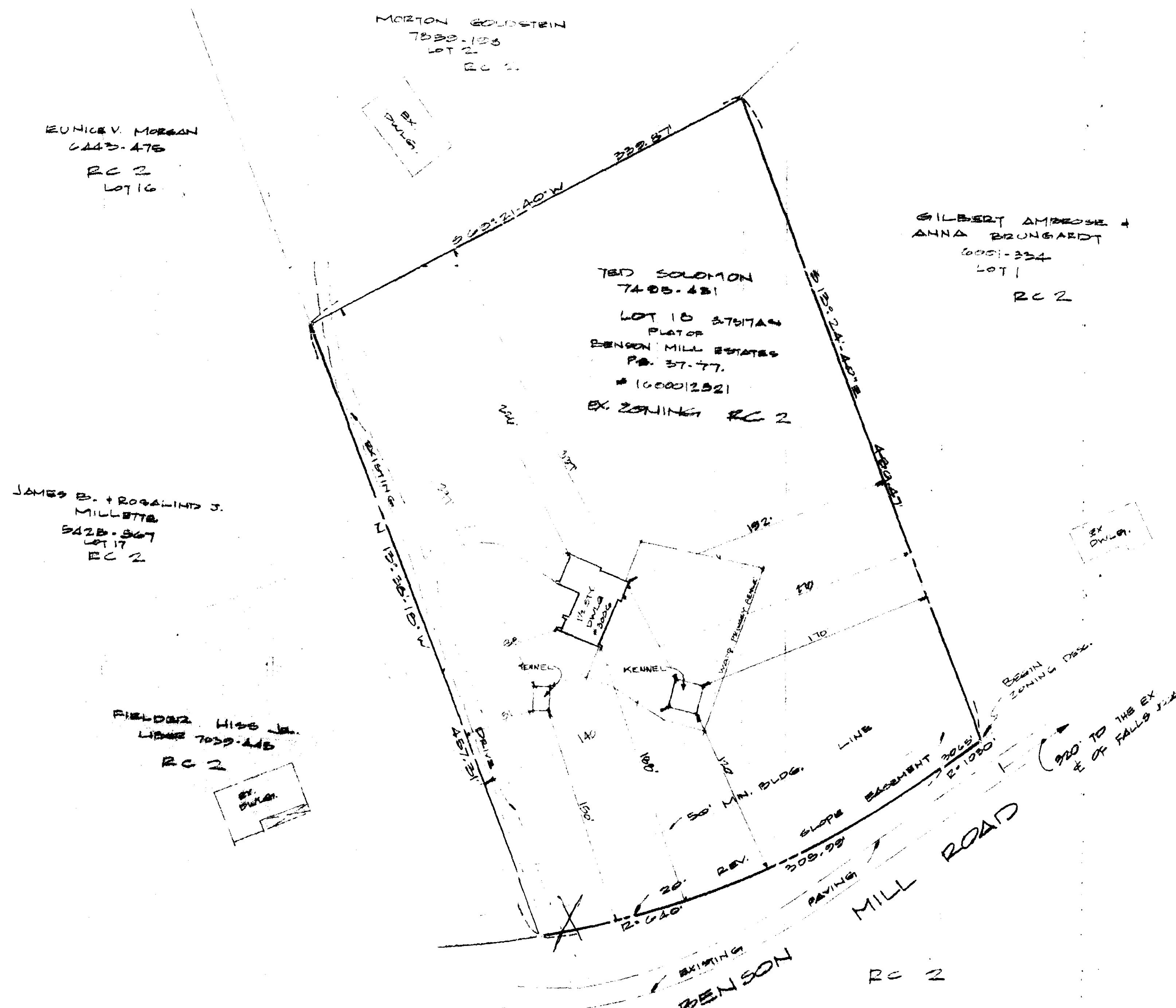
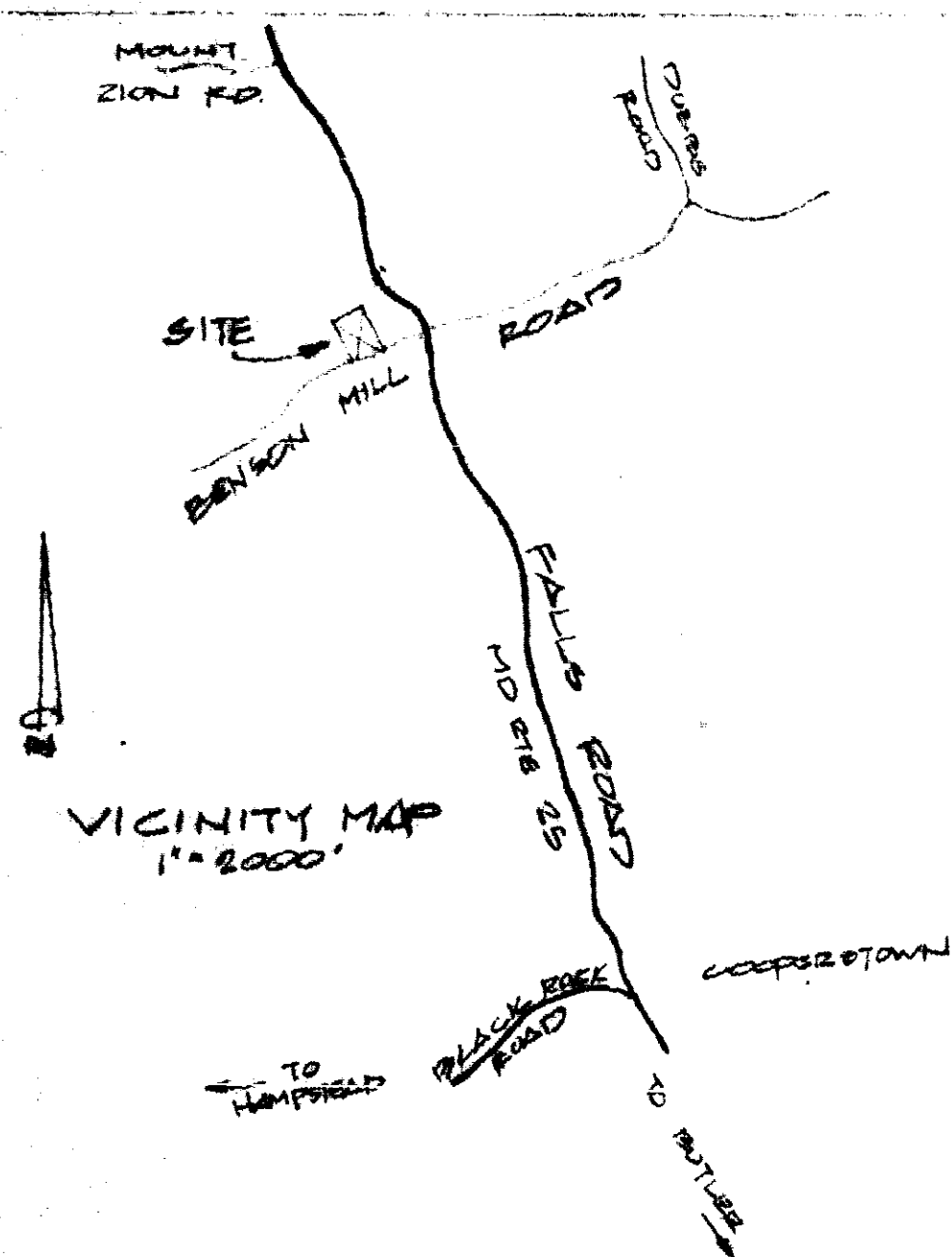
Walter D. Goldstein
16214 Falls Road
Upperco, MD 21155

John A. Genta
3003 Benson Mill Rd.
Upperco, Md 21155

John A. Genta
3016 Benson Mill Road
Upperco, MD 21155

Rebecca's
2A-2H
Rebecca's 1
(photos)
92-356-XA
Solomon





92-356-XA

P
PETITIONER'S
EXHIBIT 1

PLAN TO ACCOMPANY APPLICATION
FOR ANIMAL BOARDING PLUS
(FANCY'S LICENSE)
OF THE PROPERTY OF
TED SOLOMON
LOCATED AT
#3006 BENSON MILL ROAD

SUB ELECTION DISTRICT BALTIMORE CO., MD

SCALE: 1" = 50'

DATE 12/1/1991

REV. 1/4/1992

REV. 2/12/1992

#372



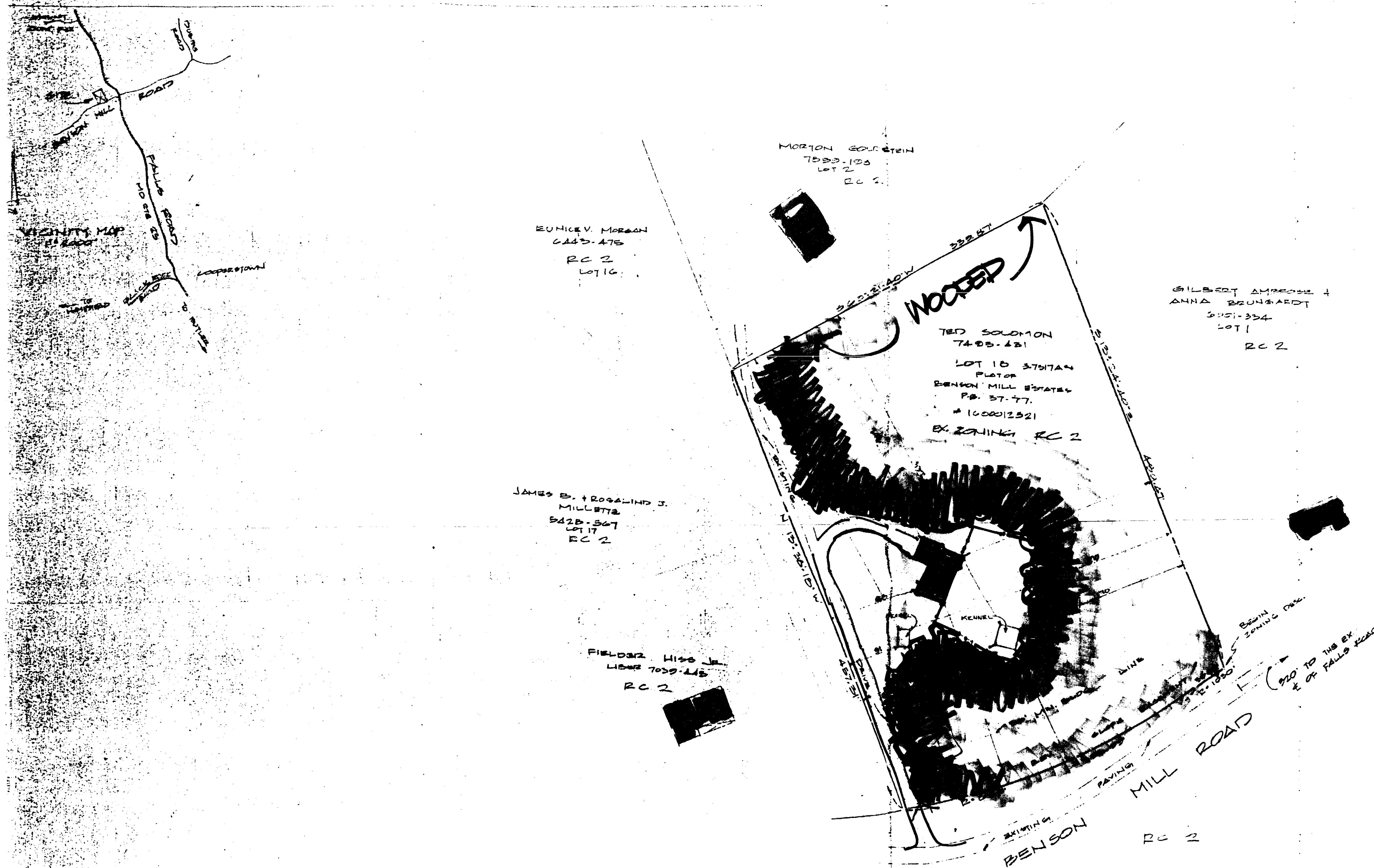
PREPARED BY:

W. T. SADLER - SURVEYOR
182 WESTMINSTER RD.
BOSTON, MD. 21026
(410) 526-5615

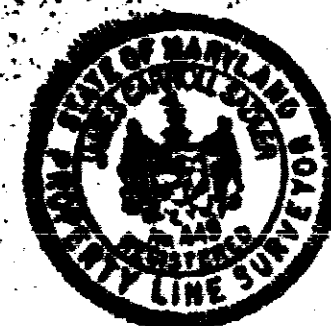
OWNER:

TED SOLOMON
3006 BENSON MILL ROAD
BUTLER, MD. 21102

Attorneys
EX 1



92-356-XA

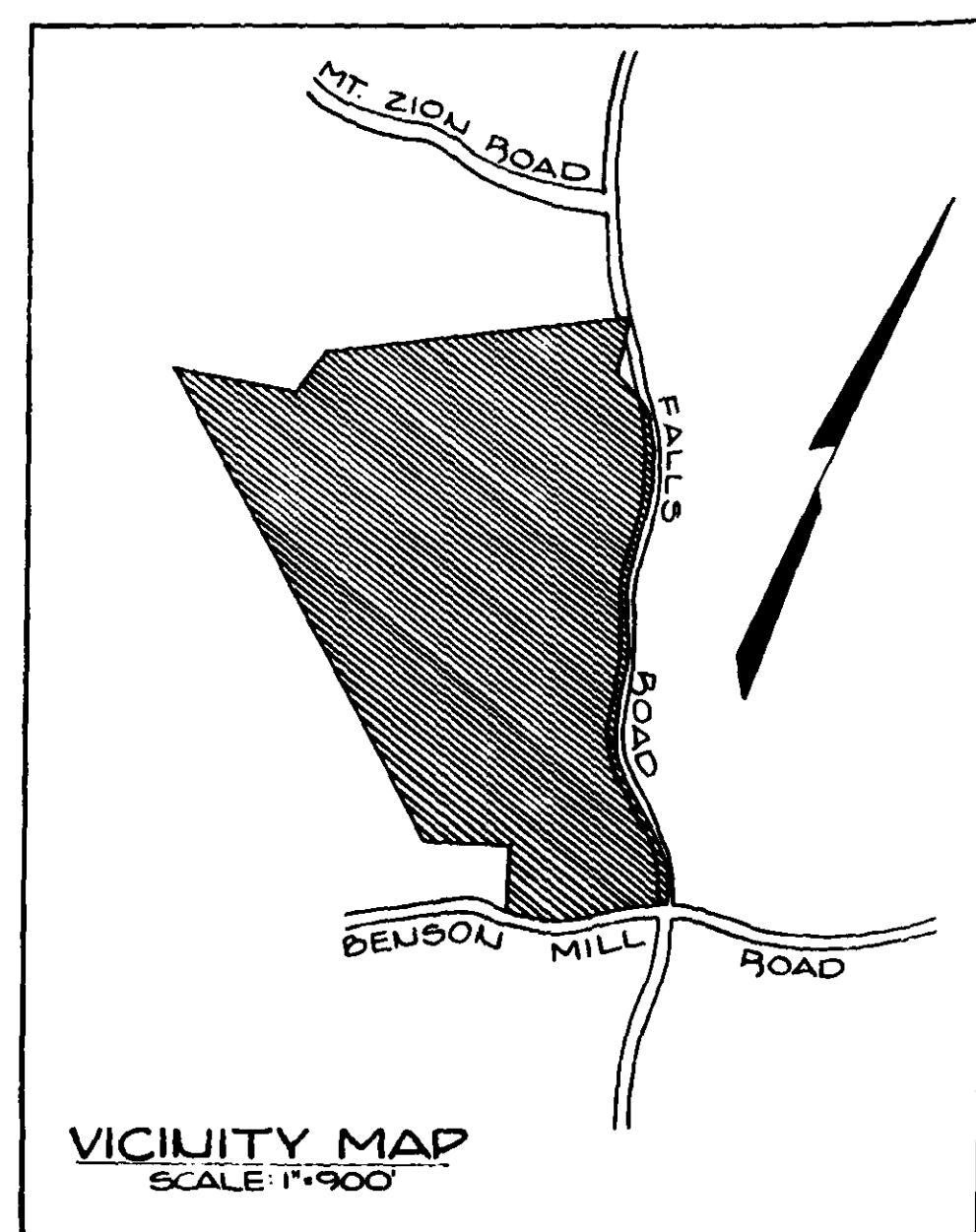


PREPARED BY:
W. T. SADLER - SURVEYOR
182 WESTMINSTER RD.
REISTERTOWN, MD. 21136
(410) 326-8100

OWNED
TED SOLOMON
3006 BENSON MILL ROAD
BUTLER, MD. 21135

PLAN TO ACCOMPANY APPLICATION
FOR ANIMAL BOARDING PLACE
(FANCY LICENSE)
OF THE PROPERTY OF
TED SOLOMON
LOCATED AT
#3006 BENSON MILL ROAD
3RD SECTION DISTRICT BALTIMORE CO., MD
SCALE: 1"=50' DATE 12/1/1991
REV. 1/14/1992
REV. 3/12/1992

#372



CHARLES A. NICODEMUS
1222-427

CURVE DATA (BENSON MILL ROAD)					
NO.	RADIUS	Δ	LENGTH	TAU	CHORD
1-40	1077.10	11°	205.61	153.24	569.12
40-7	640.00	20°58'38"	246.02	177.35	576.74

FOR FAVORABLE LOTS, REFUSE COLLECTION, SNOW REMOVAL, AND ROAD MAINTENANCE ARE PROVIDED TO THE VARIATION OF THE PARALLEL AND THE STREET RIGHT OF WAY LINE ONLY, AND NOT ONTO THE PARALLEL LOT DRIVEWAY.

COORDINATE TABLE					
NO.	NORTH	EAST	NO.	NORTH	EAST
1	6055.75	3477.04	19	8811.89	2898.34
2	6771.01	2871.17	20	8613.63	2924.97
3	6640.21	2873.03	21	8513.95	2928.36
4	6620.00	2877.54	22	8419.48	2925.26
5	6620.00	2877.54	23	8319.65	2926.11
6	6633.38	2873.88	24	8213.92	2944.22
7	6633.38	2873.88	25	8100.00	3000.00
8	6631.73	2871.12	26	7956.19	3000.98
9	6631.73	2871.12	27	7856.19	3022.92
10	6720.10	2871.12	28	7800.16	3022.17
11	6720.10	2871.12	29	7667.92	3022.16
12	6754.40	2871.12	30	7540.18	3022.43
13	6754.40	2871.12	31	7440.46	3022.25
14	6754.40	2871.12	32	7377.79	3022.25
15	6754.40	2871.12	33	7308.14	3022.25
16	6754.40	2871.12	34	7243.74	3022.25
17	6754.40	2871.12	35	7229.10	3022.25
18	6754.40	2871.12	36	7142.20	3022.25
37	6672.97	3447.62			
38	6672.97	3447.62			
39	6643.97	3447.62			
40	6643.97	3447.62			

CURVE DATA (CROSSING)					
NO.	RADIUS	Δ	LENGTH	TAU	CHORD
A	1500.00	9°	172.79	97.41	578.07
B	162.00	49°	106.61	106.20	578.07
C	174.00	46°	200.43	113.00	578.07
D	570.00	14°	129.27	69.99	562.52
E	559.00	14°	129.24	69.91	562.52
F	540.00	14°	129.41	69.94	562.52
G	1350.00	23°	541.92	274.66	1063.37
H	1350.00	23°	541.92	274.66	1063.37
I	1350.00	23°	541.92	274.66	1063.37
J	1350.00	23°	541.92	274.66	1063.37
K	1350.00	23°	541.92	274.66	1063.37

DENSITY CALCULATIONS

GROSS ACRES: 57.90 AC.
AREA OF FALLS ROAD: 0.97 AC.
ROAD WIDENING OF BENSON MILL RD: 0.23 AC.
ROAD WIDENING OF FALLS RD: 1.64 AC.
NET ACRES: 54.06 AC.
DWELLING UNITS ALLOWED: 89 UNITS (AT ONE UNIT PER ACRE)
DWELLING UNITS PROPOSED: 10 UNITS
GROSS RESIDENTIAL DENSITY: 0.20 UNITS PER ACRE
NET RESIDENTIAL DENSITY: 0.21 UNITS PER ACRE

ZONING: R.D.P.

• DENOTES CONCRETE MONUMENT SET

BENSON MILL ESTATES

FALLS ROAD & BENSON MILL ROAD

5TH ELECTION DISTRICT BALTIMORE CO., MD

SCALE: 1" = 100' OCTOBER 16, 1973

EHK, JR. 37 FOLIO 77

Filed for Record

Date FEB 1 1974

Test:

[Signature] Clerk

P. W. A. Completed Nov. 1973
Final Plat Check *[Signature]*
Plat No. *[Signature]*
Engineering *[Signature]*
Street Names *[Signature]*
House No. *[Signature]*

Proposed to 57 #1

All requirements of the Maryland State Department of Health and Baltimore County Department of Health pertaining to private water and/or sewerage systems must be complied with prior to approval of building applications.

HIGHWAY'S DEPARTMENT OF BALTIMORE CO.
APPROVED FOR STREET ALIGNMENT & LOCATION
[Signature] 12/27/73
APPROVED FOR BALTIMORE CO. HEALTH DEPT.
[Signature] 12/27/73
LIBERTY STATE COUNTY HEALTH OFFICE
APPROVED FOR BALTIMORE CO. PLANNING BOARD
[Signature] 12/24/73

NOTE:
COORDINATES AND BEARINGS SHOWN HEREON ARE BASED ON ASSUMED DATUM.

NOTE:
STREETS AND/OR ROADS SHOWN HEREON AND MENTIONED THEREIN ARE FOR PURPOSES OF DESCRIPTION ONLY AND FOR THE SAME ARE NOT INTENDED TO BE DEDICATED TO PUBLIC USE, THE FEE SIMPLE TITLE TO THE LANDS THEREOF IS EXPRESSLY RESERVED IN THE GRANTORS OF THE DEED TO WHICH THIS PLAT IS ATTACHED, THEIR HEIRS AND ASSIGNS.

OWNER'S CERTIFICATE:
THE REQUIREMENTS OF SECTION 59 TO 62, ARTICLE 17 OF THE ANNOTATED CODE OF MARYLAND, 1957 EDITION (TITLE CLERK OF THE COURT, SUBTITLE CLERK OF CIRCUIT COURTS) AS FAR AS THEY RELATE TO THE MAKING OF THIS PLAT AND THE SETTING OF MARKERS HAVE BEEN COMPLIED WITH.
BENSON MILL ASSOCIATES, INC.
[Signature] 12-29-73

SURVEYOR'S CERTIFICATE:
I, ROBERT E. SPELLMAN, A PROFESSIONAL LAND SURVEYOR OF THE STATE OF MARYLAND, DO HEREBY CERTIFY THAT THE LAID SHOW HEREON HAS BEEN LAID OUT AND THE PLAT THEREOF PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE LAW RELATING TO THE SUBDIVISION OF LAND KNOWN AS HOUSE BILL NO. 459, CH. 106, OF THE ACTS OF 1946, AND SUBSEQUENT ACTS AMENDATORY THEREOF.
[Signature] 12-29-73
PROFESSIONAL LAND SURVEYOR

SPELLMAN, LARSON & ASSOC. INC.
SUITE 303 INVESTMENT BLDG.
TOWSON, MARYLAND 21204
829-3995

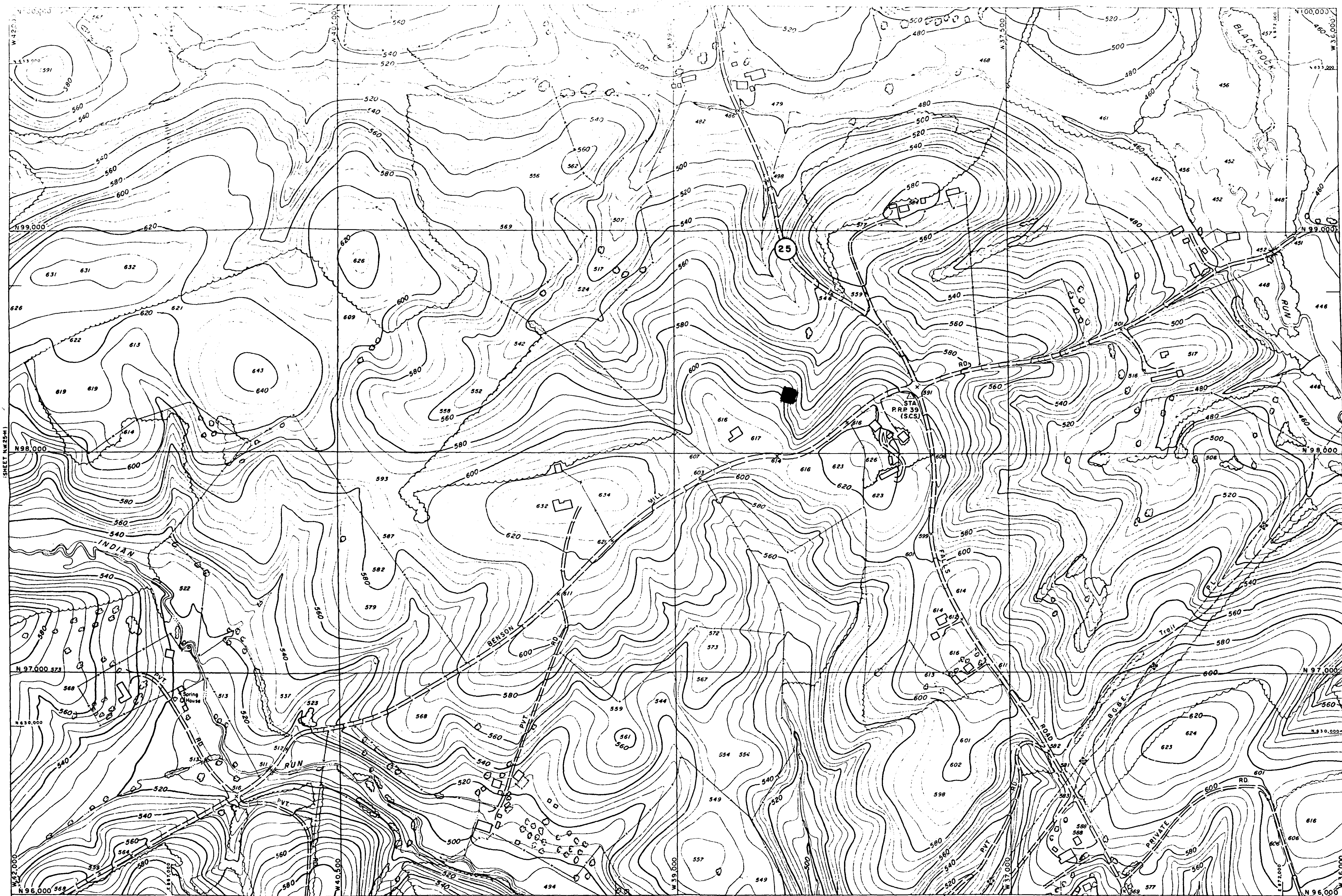
Petitioners
#4



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.
MARTINSBURG, W. V. 25401

SCALE	LOCATION	SHEET
1" = 200' ±	WEST OF	N. W.
DATE OF PHOTOGRAPHY JANUARY 1966	BEREAN	25-G



CC-NE

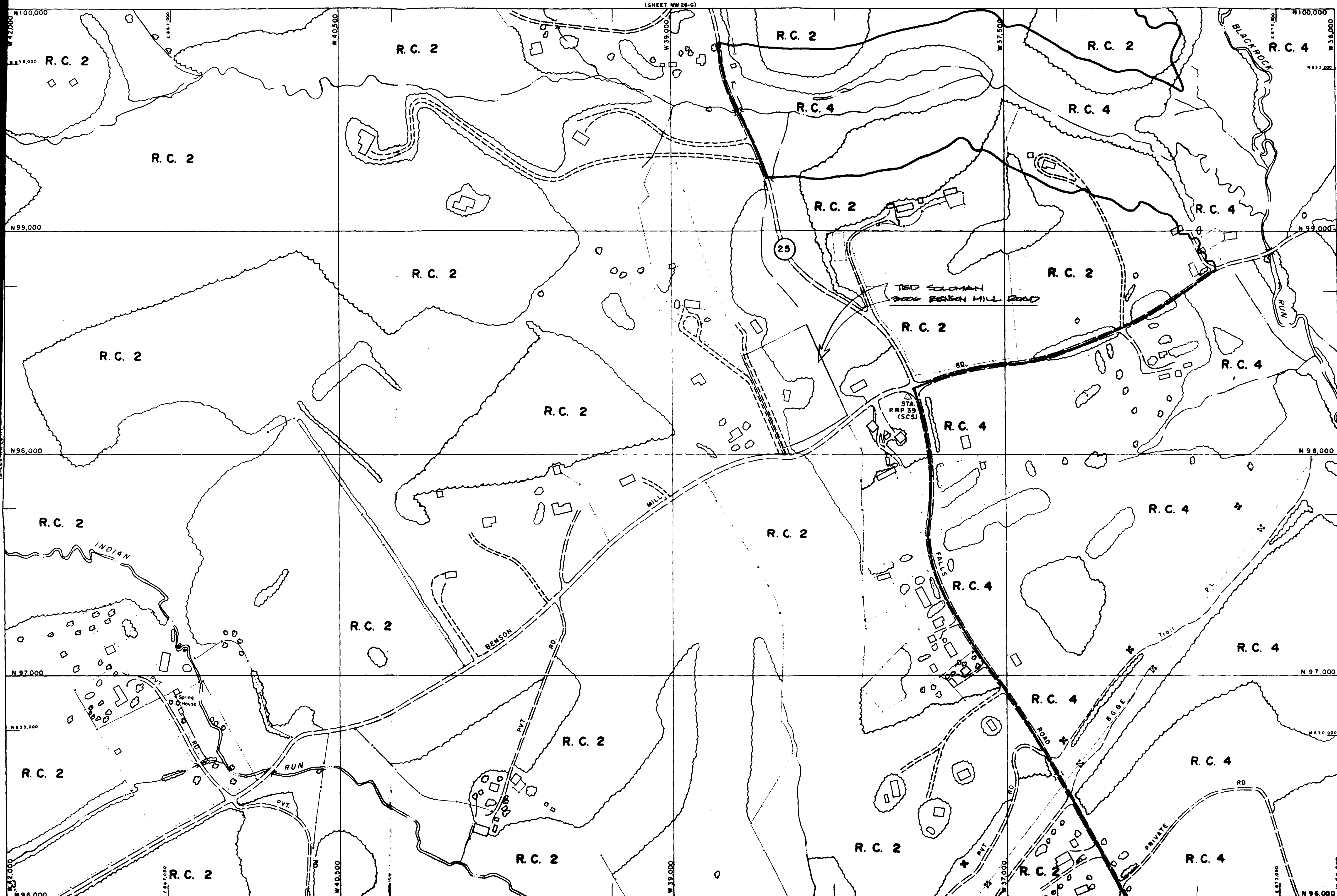
PHOTOGRAMMETRIC MAP OF BALTIMORE COUNTY, MARYLAND

REVISIONS		SCALE
BY	DATE	1" = 200'
		DATE OF PHOTOGRAPHY APRIL 1961
Topography Compiled By Photogrammetric Methods MAPS, INCORPORATED - BALTIMORE 22, MARYLAND		

LOCATION
WEST OF
BEREAN

SHEET
N.W.
2

Revisions EX 5



<p>CC-NE</p> <p>THIS MAP HAS BEEN REVISED IN SELECTED AREAS. TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS BY BUCHART-HORN, INC. BALTIMORE, MD. 21210</p>	<p>1988 COMPREHENSIVE ZONING MAP Adopted by the Baltimore County Council Oct. 13, 1988</p> <p>DR Nos. 144-88, 145-88, 146-88, 147-88, 148-88, 149-88, 150-88</p> <p><i>John J. [Signature]</i> Chairman, County Council</p>	<p>BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP</p>		<p>SCALE 1" = 200' ±</p> <p>DATE OF PHOTOGRAPHY JANUARY 1986</p>	<p>LOCATION WEST OF BEREAN</p>	<p>SHEET N.W. 25-G</p>
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#372
92-356-XA

that she and her husband own three German shepherd dogs, two of which were purchased in Germany. Mrs. Solomon testified that she trains, exercises and feeds two of the dogs and has done so for the past approximately 2 and 1/2 years. Mrs. Solomon testified that she would like to add two more German shepherd dogs in order to breed and sell puppies. She testified that all dogs kept on the premises would be her personal pets and that there would be no boarding of other animals on the property. Mrs. Solomon testified that all of the dogs are currently kept inside from 4:00 PM until approximately 7:30 AM each day and that when the dogs are outside, they are kept in the dog runs depicted on Petitioner's Exhibit 1 as the kennel buildings. Mrs. Solomon testified that the dogs are let out of the kennels for purposes of exercise and training but still remain within the fenced area depicted on Petitioner's Exhibit 1.

The Petitioners submitted photographs of the subject property which revealed that the Petitioners maintain their property in a neat and orderly fashion. The property is well-buffered by many trees that surround the yard where the dogs are kept. Mrs. Solomon testified that she personally approached all adjoining and surrounding property owners who indicated that they have no objections to her keeping and breeding German shepherds on the subject property. Mrs. Solomon testified that she would limit herself to having no more than five (5) adult dogs on the property at any one time. Testimony further revealed that this petition was filed not by virtue of a complaint being registered but because the Petitioners made application to Baltimore County for a fanciers' license.

William Kirwin appeared and testified on behalf of the Petitioners. Mr. Kirwin, an expert land planner, testified that he visited the subject property on one occasion. Mr. Kirwin described the subject site

as approximately 1.00 acres of property with a dense mix of pine and hardwood forest surrounding the subject dwelling and kennel area. He stated that it is impossible to meet the required 200-foot setback from all property lines due to the location of the existing dwelling.

Various neighbors appeared in opposition to the Petitioners' request. The cumulative testimony of the Protestants was that they are generally opposed to a kennel operation existing in their residential neighborhood. The Protestants believe that such an operation would have an adverse effect on property values in their community. Furthermore, the Protestants, by and through their attorney, Michael J. Lambros, argued that this type of use is not permitted by virtue of the covenants and restrictions that apply to all lots in the Benson Mill Estates development, of which they believe the subject property is a part. The Protestants presented evidence and testimony, by way of Thaddeus Bense, attorney at law and an expert in real estate and title work, which attempted to support the argument that the Petitioners' property is part of the Benson Mill Estates development and is therefore bound by the covenants and restrictions that apply to that subdivision. Whether this lot is part of the Benson Mill Estates and subject to those covenants and restrictions is an issue that must be reserved for the Circuit Court. The effects of those covenants and restrictions on the subject property are not a factor to be considered by this administrative body.

It is clear that the B.C.Z.R. permits the use proposed in an R.C.2 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

ORDER RECEIVED FOR FILING
Date 6/8/92
By [Signature]

b) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, it appears that a modification of the relief requested should be granted. It is clear that practical difficulty or unreasonable hardship will result if a variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structures which are the subject of this variance request and that the requirements from which the petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested, as modified, will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R. In the opinion of this Deputy Zoning Commissioner, the small kennel located outside the fenced area should either be relocated to within the fenced area or removed from the subject property, thereby eliminating the need for the requested variance of 51 feet from the west side property line. Instead, a variance of 88 feet from the existing dwelling shall be granted since the dogs will be kept overnight inside the dwelling which shall be considered part of the kennel operation. The Petitioners shall be permitted to relocate the smaller kennel building and dog run to inside the fenced area, a minimum of 88 feet from any property line.

Pursuant to the advertisement, posting of the property, and public hearing on these petitions held, and for the reasons given above, the relief requested in the special exception and variances, as modified

ORDER RECEIVED FOR FILING
Date 6/8/92
By [Signature]

above, should be granted.

WHEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 3rd day of June, 1992 that the Petition for Special Exception to use the subject property as a kennel (a "fanciers" establishment), be and is hereby GRANTED, subject to the restrictions set forth hereinafter; and,

IT IS FURTHER ORDERED that a variance to permit a west side yard setback of 88 feet, an east side yard setback of 170 feet, and a rear yard setback of 120 feet, all in lieu of the required 200 feet for the existing dwelling and accessory kennel building, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2) The special exception and variance relief granted herein shall inure to the use and benefit of the Petitioners, Theodore and Esther Solomon, only. In the event the Petitioners either sell, lease or transfer the subject property to a third party, the special exception for a kennel operation on the subject property shall cease and terminate.

3) The Petitioners shall have no more than five (5) adult dogs on the property at any one time. All dogs kept on the premises are required to be the personal pets of the Petitioners.

4) All dogs shall be kept inside the subject dwelling from approximately 9:00 PM until approximately 7:30 AM each day. Further, whenever the dogs are outside, they shall be kept inside the fenced area as depicted on Petitioner's Exhibit 1. At no time shall the dogs be permitted to run outside the fenced area, unless under the direct supervision of the Petitioners.

5) Within sixty (60) days of the date of this Order, the accessory kennel building located outside the fenced area on the west side of the subject property

shall either be removed from the property or relocated to within the fenced area as shown on Petitioner's Exhibit 1. In either event, the Petitioners shall submit a revised site plan depicting either its removal or relocation for inclusion in the case file within sixty (60) days of the date of this Order.

6) Any and all puppies resulting from the Petitioners' breeding their dogs, shall be removed from the property within 24K (6) months after their birth. This should allow the Petitioners sufficient time to either sell or relocate any and all puppies.

7) When applying for any permits, the site plan and/or landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petition for Zoning Variance requesting relief from Section 421.1 of the B.C.Z.R. to permit a kennel use area as close to a property line as 51 feet in lieu of the required minimum of 200 feet, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance from Section 400.1 of the B.C.Z.R. to permit an accessory kennel building to be located in the side/front yard in lieu of the required rear yard, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED since the Petitioners are now required, pursuant to this Order, to either relocate or remove this smaller kennel from the side/front yard of their property.

TIMOTHY M. KUTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

Suite 113, Confluence
400 Washington Avenue
Towson, MD 21204

June 2, 1992

610-587-1386

Robert A. Hoffman, Esquire
Venable, Baetjer & Howard
210 Allegheny Avenue
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL EXCEPTION AND ZONING VARIANCE
N/S Benson Mill Road, 120' W of the c/l of Falls Road
(3006 Benson Mill Road)
5th Election District - 3rd Councilmanic District
Theodore Solomon, et ux - Petitioners
Case No. 92-356-XA

Dear Mr. Hoffman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Exception has been granted and the Petition for Zoning Variance granted in part and denied in part in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

TIMOTHY M. KUTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Michael J. Lambros, Esquire
16230 Falls Road, Upperco, Md. 21155

People's Counsel

File

ORDER RECEIVED FOR FILING
Date 6/8/92
By [Signature]

ORDER RECEIVED FOR FILING
Date 6/8/92
By [Signature]

Petition for Special Exception

to the Zoning Commissioner of Baltimore County 92-356-XA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for a kennel (a "fanciers" establishment)

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

Robert A. Hoffman
(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.:

Legal Owner(s):

Theodore C. Solomon
(Type or Print Name)

Signature

(Type or Print Name)

Signature

3006 Benson Mill Road 771-4484

Address Phone No.

Sparks, Maryland 21152

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Robert A. Hoffman, Esquire

Name 210 Allegheny Avenue

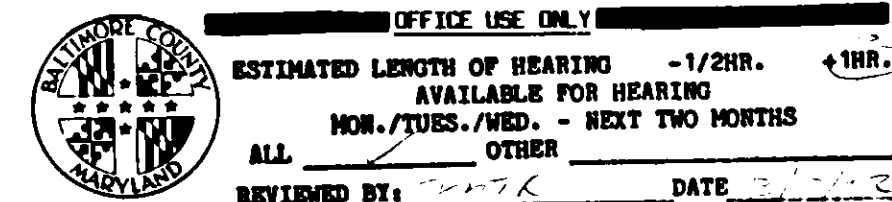
Towson, Maryland 21204 823-4111

Address Phone No.

ORDER RECEIVED FOR FILING

Date 6/8/92

By [Signature]





Petition for Variance

to the Zoning Commissioner of Baltimore County **92-356-XA**

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 421.1 B.C.Z.R. to permit a kennel use area as close as 51 feet in lieu of the required minimum 200 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

To be determined at hearing

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

Robert A. Hoffman, Esquire

(Type or Print Name)

Signature

210 Allegheny Avenue

Address

Towson, Maryland 21204

City and State

Attorney's Telephone No.: 823-4111

Legal Owner(s):

Theodore C. Solomon

(Type or Print Name)

Signature

(Type or Print Name)

Signature

3006 Benson Mill Road 771-4484

Address Phone No.

Sparks, Maryland 21152

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted:

Robert A. Hoffman, Esquire

Name 210 Allegheny Avenue

Towson, Maryland 21204 823-4111

Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING -1/2HR. -4HR.

AVAILABLE FOR HEARING

NEXT TWO MONTHS

ALL OTHER

REVISOR BY: DATE

W.T. SADLER SURVEYORS

152 Westminster Road
Reisterstown, Md. 21136

James C. Sadler

Phone (301) 526-5618
FAX (301) 526-7199

Zoning Description
Property of
Ted Solomon
3006 Benson Mill Road
Baltimore County, MD.

92-356-XA

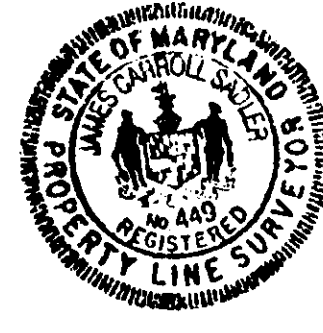
Beginning at a point on the northern side of Benson Mill Road, 60 feet wide at a distance of 320 feet, more or less westerly from the existing centerline of Falls Road, thence the following course and distances:

- 1) along a curve to the left with a radius of 1030 feet for a distance of 30.65 feet
- 2) along a curve to the right with a radius of 640 feet for a distance of 308.99 feet
- 3) north 13 degrees 38 minutes 18 seconds west 457.31 feet
- 4) north 69 degrees 21 minutes 40 seconds east 339.87 feet
- 5) south 13 degrees 24 minutes 40 seconds east 480.47 feet to the place of beginning.

Containing 3.7317 acres of land more or less. Being lot 18, on a plat of Benson Mill Estates, recorded in Baltimore County in Plat Book E.H.K. Jr., 37, folio 77. Said property is recorded in Deed Liber 7495, folio 431.

This metes and bounds description was prepared for zoning purposes only.

JAMES C. SADLER, Reg.No. 449



CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 5th Date of Posting: April 24, 1992

Posted for: Theodore C. Solomon

Petitioner: Theodore C. Solomon

Location of property: 3006 Benson Mill Road, 5th Election District - 3rd Councilmanic

Location of Sign: 3006 Benson Mill Road, 5th Election District - 3rd Councilmanic

Remarks: Property

Posted by: J. J. Smith Date of return: April 24, 1992

Number of Signs: 2

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 5th Date of Posting: July 30, 92

Posted for: Theodore C. Solomon

Petitioner: Theodore C. Solomon

Location of property: N/S of Benson Mill Road, 300' W of c/l Falls Road, 3006 Benson Mill Road, 5th Election District - 3rd Councilmanic

Location of Sign: 3006 Benson Mill Road, 5th Election District - 3rd Councilmanic

Remarks: Property

Posted by: J. J. Smith Date of return: July 31, 92

Number of Signs: 2

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 118, Baltimore County Courthouse, 400 Washington Avenue, Towson, Maryland 21204 at 2:00 p.m.

Case Number: 92-356-XA
N/S Benson Mill Road, 300' W of c/l Falls Road
3006 Benson Mill Road
5th Election District
3rd Councilmanic
Petitioner(s): Theodore C. Solomon
Hearing Date: Friday, April 24, 1992 at 2:00 p.m.

Special Exception for a kennel (a "fancier's establishment") Variance to permit a kennel use area as close as 51 feet in lieu of the required minimum 200 feet, and to permit accessory buildings in the side/front yard in lieu of the rear.

LAWRENCE E. SCHMIDT
Zoning Commissioner of Baltimore County
NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE. SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353, 4900 April 2, 92

CERTIFICATE OF PUBLICATION

TOWSON, MD., 4-2, 1992

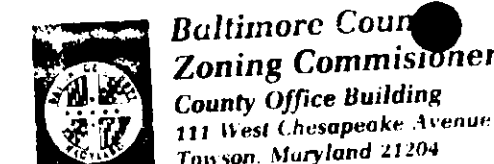
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 4-2, 1992

THE JEFFERSONIAN,

St. Zekel Olson

Publisher

\$44.73



Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

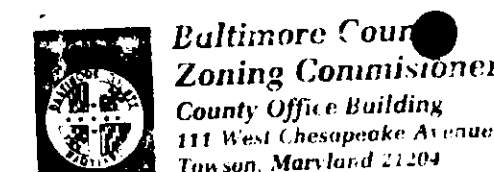
Account: R 001-6150
Number

Date

Cashier Validation

Please Make Checks Payable To: Baltimore County
BA 0011-23AND03-18-92

receipt



Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R 001-6150
Number

Date

92-356

Please Make Checks Payable To: Baltimore County \$14.73
BA 0011-23AND03-05-92

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

DATE: 4/7/92

Theodore C. Solomon
3006 Benson Mill Road
Sparks, Maryland 21152

RE:
CASE NUMBER: 92-356-XA
N/S Benson Mill Road, 300' W of c/l Falls Road
3006 Benson Mill Road
5th Election District - 3rd Councilmanic
Petitioner(s): Theodore C. Solomon

Dear Petitioner(s):

Please be advised that \$114.73 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID. ALSO, THE ZONING SIGN & POST SET(S) MUST BE RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 118, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your order, immediate attention to this matter is suggested.

Bill Jahn

BRUCE JAHN
DIRECTOR

cc: Robert A. Hoffman, Esq.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

MARCH 27, 1992

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 118, Baltimore County Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 92-356-XA
N/S Benson Mill Road, 300' W of c/l Falls Road
3006 Benson Mill Road
5th Election District - 3rd Councilmanic
Petitioner(s): Theodore C. Solomon
HEARING: FRIDAY, APRIL 24, 1992 at 2:00 p.m.

Special Exception for a kennel (a "fancier's establishment"). Variance to permit a kennel use area as close as 51 feet in lieu of the required minimum 200 feet; and to permit accessory buildings in the side/front yard in lieu of the rear.

Laurence E. Schmidt
Laurence E. Schmidt

Zoning Commissioner of
Baltimore County

cc: Theodore C. Solomon
Robert A. Hoffman, Esq.

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

ZONING OFFICE

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

DATE: April 14, 1992
TO: Arnold Jablon, Director
Zoning Administration & Development Management
FROM: Ervin McDaniel, Chief
Development Review Section
Office of Planning and Zoning
SUBJECT: PETITIONS FROM ZONING
ADVISORY COMMITTEE - March 30, 1992

The Office of Planning and Zoning has no comments on the following petitions:

Theodore C. Solomon - Item No. 372
James A. Brazil - Item No. 375
Deborah Rollins Frank - Item No. 377
Richard Bauman - Item No. 378
Lakes Property Development Corp - Item No. 379

jm
PETITNS2.ZON

RECEIVED
APR 15 1992
ZONING OFFICE

BALTIMORE COUNTY, MARYLAND
OFFICE OF PLANNING AND ZONING
New Courts Bldg - 301 Reister Avenue, Towson, MD 21204

MEMORANDUM

TO: Arnold Jablon, Director - Zoning Administration & Development Management
FROM: Office of Planning and Zoning
DATE: April 15, 1992

SUBJECT: (PROJECT NAME:) 306 BENSON MILL ROAD

INFORMATION:

Item Number: 372
Petitioner: Theodore C. Solomon
Property Size: 3.73 acres
Zoning: RC 2
Requested Action: Special Exception to use the property as a kennel and Variances to permit accessory buildings as close as 51 ft. in lieu of 200 ft.
Hearing Date:

SUMMARY OF RECOMMENDATIONS:

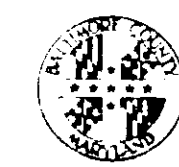
The petitioner is requesting a kennel and variances to permit the kennel use area as close as 51' in lieu of the required minimum of 200'.

This site is located within an area designated as an agricultural priority area according to the Baltimore County Master Plan. This site is surrounded by rural residential and three houses are located within 120' of the subject site's property line.

A kennel can be a nuisance in terms of noise and odors, therefore, our staff has questions about the location and the appropriateness of this use at this particular location. However, if the adjoining property owners are not in opposition to this request, the petition may be approved with certain suggested restrictions:

1. Elimination of the smaller kennel building closest to the property line.
2. A limitation of five (5) adult dogs (1 yr & older), on site at one time.
3. Puppies must be removed after nine (9) months.
4. The special exception be terminated when and if the petitioners sell or move from the property.

jm
SOLOMON.372



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180
Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue
August 12, 1992

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-356-XA

THEODORE C. SOLOMON
N/s Benson Mill Road, 320' W of c/l
Falls Road (3006 Benson Mill Road)
5th Election District;
3rd Councilmanic District

SE-Kennel
VAR-Kennel use 51' from property line
in lieu of required min. 200'; 2
accessory buildings in front yard and
side yard

6/2/92 - D.Z.C.'s Order GRANTING
Petition.

ASSIGNED FOR:

TUESDAY, DECEMBER 8, 1992 AT 10:00 a.m.

cc: Michael J. Lambros, Esquire - Counsel for Protestants

Robert A. Hoffman, Esquire - Counsel for Petitioners

Theodore C. Solomon - Petitioner

Mr. William Kirwin

People's Counsel for Baltimore County
Public Services
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of Zoning
Administration

LindaLee M. Kuszmaul
Legal Secretary

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

July 22, 1992

Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: Petition for Special Exception and Zoning Variance
N/S of Benson Mill Road, 320' W of the c/l of Falls Road
(3006 Benson Mill Road)
5th Election District, 3rd Councilmanic District
THEODORE C. SOLOMON - Petitioner
Case No. 92-356-XA

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on June 30, 1992 by Michael J. Lambros, Attorney for Protestants. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

John A. Baetjer
Zoning Commissioner

LES:cer

Enclosures

cc: Theodore C. Solomon - 3006 Benson Mill Road, Sparks, MD 21152

Robert A. Hoffman, Esquire - Venable, Baetjer and Howard
210 Allegheny Avenue, Towson, MD 21204

William Kirwin - 28 E. Susquehanna Ave., Towson, MD 21204

Michael J. Lambros - Lambros & Lambros
9900 N. York Road, Cockeysville, Maryland 21030

People's Counsel of Baltimore County
Old Courthouse, 400 Washington Avenue, Towson, MD 21204

File

APPEAL

Petition for Special Exception and Zoning Variance
N/S of Benson Mill Road, 320' W of the c/l of Falls Road
(3006 Benson Mill Road)
5th Election District - 3rd Councilmanic District
THEODORE C. SOLOMON - Petitioner
Case No. 92-356-XA

Petition(s) for Special Exception and Zoning Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments (Included with ZAC Comments)

Petitioner's Exhibits: 1. Plan to accompany application
2A, 2B, 3A, 3B, 4A - 4D - Photographs
4. Letter of Support from neighbors

Petitioner's/Protestant's Sign-In Sheet

Copy of Turner v. Brocato, 111A.28855 (1955)

Protestant's Exhibits: 1. FWA - Plan
2. Copy of "Exhibit A" (Restriction)
3. Deed (Neil Solomon)
4. Deed (Surface-All Construction)
5A - 5C - Petition and Authorization

Deputy Zoning Commissioner's Order dated June 2, 1992 (Granted)

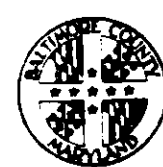
Notice of Appeal received June 30, 1992 from Michael J. Lambros, Attorney for Protestants.

cc: Theodore C. Solomon - 3006 Benson Mill Road, Sparks, MD 21152
Robert A. Hoffman, Esquire - Venable, Baetjer and Howard
210 Allegheny Avenue, Towson, MD 21204

William Kirwin - 28 E. Susquehanna Avenue, Towson, MD 21204

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Deputy Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of Zoning Administration
and Development Management
Public Services



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

January 28, 1993

Michael J. Lambros, Esquire
LAMBROS & LAMBROS
9900 N. York Road
Cockeysville, MD 21030

RE: Case No. 92-356-XA
Theodore C. Solomon

Dear Mr. Lambros:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Sincerely,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: Robert A. Hoffman, Esquire
Theodore C. Solomon
William Kirwin
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Admin.

8/12/92 - Following parties notified of hearing set for December 8, 1992 at 10:00 a.m.:

Michael J. Lambros, Esquire
Robert A. Hoffman, Esquire
Theodore C. Solomon
Mr. William Kirwin
People's Counsel for Baltimore County
Public Services
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon

IN THE MATTER * COUNTY BOARD
OF THEODORE C. SOLOMON * OF APPEALS OF
RE: ZONING VARIANCE * BALTIMORE COUNTY
* CASE NO: 92 356 XA

SUBPOENA

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: Robert C. Merrey, Jr.
300 East Townsontowne Boulevard
Towson, Maryland 21204

YOU ARE HEREBY COMMANDED TO: Personally appear and produce your file with respect to your investigation regarding the zoning variance request of 3006 Benson Mill Road at the County Board of Appeals of Baltimore County, Hearing Room 48, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 on Tuesday, December 8, 1992 at 10:00 a.m.

Subpoena requested by the Petitioner; and any questions should be referred to: Thomas P. Dore, Esquire, Covahey & Boozer, P.A., 614 Bosley Avenue, Towson, MD. 21204; (410) 828-9441.

Date Issued: *Kathleen C. Weidenhammer*
Clerk

NOTICE: (1) YOU ARE LIABLE TO BODY ATTACHMENT AND FINE FOR FAILURE TO OBEY THIS SUBPOENA.
(2) This subpoena shall remain in effect until you are granted leave to depart by the Court or by an officer acting on behalf of the Court.
(3) If this subpoena is for attendance at a deposition and the party served is an organization, notice is hereby given that the organization must designate a person to testify pursuant to Rule 2-412(d).

SHERIFF'S RETURN
() - Served and copy delivered on date indicated below.
() - Unserved, by reason of _____

Date: _____ Fee: _____ Sheriff _____
92-12-02.mk

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